



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

DIVISION OF MOTOR VEHICLES

EUGENE A. CONTI, JR.
SECRETARY

September 10, 2012

VIA HAND DELIVERY

The Honorable Roy A. Cooper III
Attorney General
114 West Edenton Street
Raleigh, NC 27602

Dear Attorney General Cooper:

As you may be aware, on June 15, 2012, the United States Department of Homeland Security issued a policy directive entitled Deferred Action for Childhood Arrivals ("DACA"). This directive provided that individuals who came to the United States as children and meet certain other enumerated criteria are permitted to seek deferred action status from the United States Citizenship and Immigration Services ("USCIS"). Persons granted such status will be exempt from removal proceedings for a period of two years. The directive further stated that individuals accorded such status based on DACA will be issued an Employment Authorization Document ("EAD") bearing a category code of C33 that will be visible on the document.

As you know, N.C. General Statute 20-7 sets out the legal criteria for issuance of a driver's license in North Carolina by the Division of Motor Vehicles ("DMV"). Section 20-7(b1) of that statute requires that an applicant must present a valid Social Security Number in order to receive a license. However, Section 20-7(s) goes on to state that where an applicant lacks a valid Social Security Number but meets all of the other criteria for a driver's license, a license of limited duration shall be issued by DMV to the applicant if he or she presents "valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's *legal presence* of limited duration in the United States..."(emphasis added).

Our understanding is that USCIS will be issuing EADs to persons qualifying under DACA in the next two to four weeks. We anticipate that DMV officers will, in turn, be presented with such EADs by individuals seeking a driver's license of limited duration pursuant to Section 20-7(s).

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The purpose of this letter is to request a written opinion from the North Carolina Attorney General's Office as to whether N. C. General Statute 20-7 requires DMV to issue a driver's license of limited duration to persons who present an EAD that was issued pursuant to DACA. Legal guidance from your office is necessary to clarify whether an EAD bearing a category code of C33 constitutes a document demonstrating the bearer's "legal presence" in the United States as that phrase is used in N. C. General Statute 20-7(s).

I would be grateful if you would provide me with a written opinion at your earliest convenience so that DMV can properly comply with North Carolina law regarding this issue. For the time being, we have directed DMV offices not to issue driver's license of limited duration to individuals possessing EADs issued pursuant to DACA. No such licenses will be issued unless we receive written guidance from your office informing us that North Carolina law does, in fact, require them to be issued.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael D. Robertson", is written over a circular stamp or seal.

Michael D. Robertson
Commissioner